

REPORT OF THE PRIVATE PRACTICE PHYSICIANS SECTION
GOVERNING COUNCIL

PPPS GC Report E
(A-26)

Subject: State Regulation of Non-Preempted “Non-Central Matters” of ERISA Plans—
Rutledge v. PCMA
(PPPS Resolution 12-A-25)

Presented by: Carolynn Francavilla, MD, Chair

Referred to: PPPS Reference Committee
(, MD, Chair)

1 INTRODUCTION

2
3 At its 2025 Annual Meeting, the PPPS Assembly referred Resolution 12-A-25, State Regulation of
4 Non-Preempted “Non-Central Matters” of ERISA Plans—Rutledge v. PCMA, for report. The
5 resolution asked the AMA to:

- 6
7 1. Study whether and how the following issues not currently addressed under the
8 Employment Retirement Income Security Act (ERISA) and that do not relate to a
9 “particular scheme of substantive coverage” may be reasonably regulated by states for
10 self-insured ERISA plans pursuant to the U.S. Supreme Court holding in Rutledge v.
11 PCMA with a report back at the Interim 2025 meeting on the feasibility and barriers of
12 implementing state-based regulation for these priority issues and an action plan,
13 including sample legislative language, to support state based implementation of these
14 priorities:
- 15 a. Interest payments on overdue “clean” health insurance claims not otherwise
16 addressed by ERISA’s statutory mandate;
 - 17 b. Administrative issues surrounding prior authorization, including but not
18 limited to timeliness of responses and duty to obtain date records available
19 from sources other than the physician so as not to waste physician resources;
 - 20 c. Payment for Medicare co-insurance and deductibles when Medicare is primary
21 and another plan is secondary and the physician is a Medicare-participating
22 physician but non-participating with the secondary plan;
 - 23 d. Payment for the administrative burden of prior authorization and successful
24 denial appeals;
 - 25 e. Parity for telehealth-delivered services;
 - 26 f. Timely payment of “clean claims” when the insurer’s obligation to pay the
27 claim is reasonably distinct from timely determination of claims;
 - 28 g. Enforcement of evaluation & management modifier code 25 use/payments as
29 articulated under AMA policies D-385.956 and D-70.971 as well as analogous
30 state medical society policies;
 - 31 h. Requiring that when health plan payment recovery or recoupment is due to
32 coordination of benefit failure, the health plan shall seek recovery from the
33 patient and/or the correct payor;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50

DISCUSSION

Resolution 12-A-25 seeks to expand AMA research into recent U.S. Supreme Court holdings surrounding regulation of ERISA as federal law. After consultation with AMA staff, including the Office of the General Counsel, the Advocacy Resource Center, AMA Health Services, and Governance and Policy staff, the Governing Council has been made aware that the AMA has already produced advisory materials that address many of the provisions in the resolution’s resolve clause. The AMA’s 2024 issue brief, “ERISA Preemption and State Regulation of Pharmacy Benefit Managers and Administrative Services Organizations” already provides guidance on how independent practices should interpret and understand the Supreme Court holding in *Rutledge v. PCMA*, likely negating the need for further investigative research.

The Governing Council is skeptical that further research into the implications of *Rutledge* on ERISA could be adequately formulated in the limited timeframe called for by the resolution, which makes simply advancing the original resolution onto the House of Delegates for consideration potentially problematic. However, the Council also finds that the brief lacks a thorough unpacking of the potential strategies that physicians, particularly those in independent practice, could be aware of as they make operational and strategic choices in their practices and thus the brief could be expanded upon.

After prolonged consideration of the eight different report requests contained in Resolution 12-A-25, the PPPS Governing Council believes it is beyond the scope of the Private Practice Physicians Section to effectively answer each request. The Council believes that the Resolution would likely be more successful if it were reconsidered by the assembly and advanced as a directive focused primarily on the strategic and operational actions that physicians should consider for their practices under the *Rutledge* holding.

CONCLUSION

The PPPS Governing Council believes the implications of Resolution 12-A-25 are outside the scope of the section and that the PPPS assembly ought to advance the issue to the House of Delegates for its consideration during the 2026 Annual Meeting.

RECOMMENDATION

The PPPS Governing Council recommends that the following be adopted in lieu of Resolution 12-A-25, and that the remainder of this report be filed:

1. Our American Medical Association will examine the strategic and operational opportunities physicians should consider under the U.S. Supreme Court holding in *Rutledge v. PCMA* as they pertain to the Employment Retirement Income Security Act (ERISA) with a report back at the Annual 2027 meeting with recommendations for operational best practices.
2. Our American Medical Association will explore and, as appropriate, provide related educational programming at Interim and/or Annual Meetings and through other appropriate venues, including potential educational modules, regarding ERISA and its practical implications for private practice physicians.